

Application No.: 09/476,877

Docket No.: 21736-00010-US

REMARKS

This amendment is responsive to the Office Action of October 15, 2003. An accompanying request for a two-month extension of time makes this response timely. In the Office Action, claims 53, 54, 57, 60, 61, 64-68, 71-75 and 78-86 were rejected.

The claims were rejected on a combination of the ON-SALE publication in view of the newly-cited Fujisaki patent.

The Office Action indicated that claims 55-56, 58-59, 62-63, 69-70 and 76-77 were objected to but the Office Action indicated that they would allowable if they were rewritten in independent form.

By this amendment applicant has canceled pending claims 53-86 and presents as new claims 87-166. These claims include independent system claims 87, 97, 127 and 137 and independent method claims 107, 117, 147 and 157.

The ON-SALE publication deals in a limited way with auctions but, as applicant has argued, it is incapable of reaching the subject matter disclosed herein.

Some of the new claims are directed to a method or system for auctioning plural items at least some of which are dissimilar. Other claims more particularly specify that the items subject to the auction include "multiple instances of each of plural dissimilar items." Along those lines, the claims recite that the bids include a monetary parameter (specified in these claims as a "value parameter P_i ") and also a parameter S_i which is "a set identification." The claims further specify that "the set identification S_i identifies a set of items that the user proposes to transact." In other words, in the auction claimed herein, the user can identify in the parameter S_i which of the items subject to the auction, the bidder wishes to transact and it is those items which relate to the value parameter P_i of the bid.

Application No.: 09/476,877

Docket No.: 21736-00010-US

The claims go on to specify the presence of "decision means" or step which responds to the bid information. Moreover, the claims specify that the decision means or step function to select bids to maximize a function of the value parameters P_i of the selected bids.

Applicant has argued that the ON-SALE publication fails to describe decision means and hence, would also fail to describe the presence of the "selecting means" or a selecting function.

The statement of the rejection acknowledges that the ON-SALE document does not explicitly describe the decision means. For this subject matter, the rejection relies on the Fujisaki patent, citing col. 7, 10, and 13 of Fujisaki.

However, when properly understood, Fujisaki describes auction information transmission processing. Fujisaki is disqualified as a suitable reference on at least two grounds. In the first place, Fujisaki does not describe any decision means (nor does Fujisaki describe any selecting means or step which operates on the P_i parameter). Moreover, the Fujisaki system does not execute auctions in which dissimilar items are auctioned. For example, Fujisaki describes auctions of cars. Fujisaki may contemplate multiple auctions. Whether each auction has a single car or a single lot of cars, each auction is an auction of a single lot (whether or not the lot includes multiple cars or not). By definition an action of a single lot cannot be an auction for auctioning dissimilar items.

More particularly, Fujisaki describes a way to connect dealer terminals 50-1 *et seq.* which are remote from the location of an auction so that information respecting what is currently subject to an auction can be transmitted to the dealer locations and bids can be transmitted from the dealer locations. However, it is apparent that the auction is conducted a single lot at a time since the prices bid up in "predetermined increments of e.g. 3000 yen (or approximately \$20) whenever a POS bid-up signal is input." The reference has no description of a S_i parameter contained in a bid. Thus, the system merely provides for a bidder to manifest an intent to bid up (by a predetermined amount) the last bid. Thus, the bid information does not include either information corresponding to the set identification S_i nor even the value parameter P_i .

4

Application No.: 09/476,877

Docket No.: 21736-00010-US

Furthermore, the patent notes that an auction system is in existence which "includes an auction data processor installed at the auction site." The patent then goes on to describe how information can be derived from the auction system for distribution to the dealer terminals and data can be transmitted from the dealer terminals to the auction system. What is not described, however, is any "decision means" or any "selecting means." Since neither the ON-SALE publication nor the Fujisaki patent describes a decision means or selecting means, applicant submits that the combination of those references cannot render obvious subject matter – which is absent from both references..

An accompanying IDS cites Onsale patents 5835896 and 6243691. These patents differ from the Onsale publication which is the basis for the outstanding rejection in that these references describe an "auction manager" (see fig. 6 of the '896 patent). However, as described in the patent, termination of each auction is based on time, see step 53 in fig. 6 and 8:53-55 and 13:25-54 of '896. The bid manager (fig. 7) makes it clear that an auction is limited to "a merchandise item", see step 62. This is contrasted to the auction of dissimilar items specified in the claims herein. Furthermore the bids described in Onsale do not include the set parameter S_i recited in the claims.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Dated: March 15, 2004

Respectfully submitted,

By Stanley B. Green

Stanley B. Green

Registration No.: 24,351

CONNOLLY BOVE LODGE & HUTZ LLP

1990 M Street, N.W., Suite 800

Washington, DC 20036-3425

(202) 331-7111

(202) 293-6229 (Fax)

Attorney for Applicant